

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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CHANDRA HARRISON,	:	
	:	
Plaintiff,	:	11 Civ. 9529 (PAC) (HBP)
	:	
-against-	:	REPORT AND
	:	<u>RECOMMENDATION</u>
SOUTH BRONX MENTAL HEALTH	:	
COUNCIL INC.,	:	
	:	
Defendant.	:	
	:	
-----X	:	

PITMAN, United States Magistrate Judge:

TO THE HONORABLE PAUL A. CROTTY, United States  
District Judge,

The pro se plaintiff commenced this action on December 23, 2012 by filing a summons and complaint. A service package was mailed to her at the address provided when she commenced this action on January 24, 2012. My review of the file in July 2012 and again in October 2012 disclosed that no proof of service of the summons and complaint had ever been filed and it appeared that the summons and complaint had not, in fact, been served. Accordingly, I issued an Order to plaintiff on October 18, 2012 directing that plaintiff show cause on or before December 17, 2012 why the action should not be dismissed for failure to serve the summons and complaint within the 120-day time limit estab-

lished by Rule 4(m), Fed. R. Civ. P. Specifically, my October 18, 2012 Order provided:

Despite the fact that Rule 4(m), Fed. R. Civ. P., requires that the summons and complaint be served on all defendants no later than 120 days after the commencement of the action, according to the Court's records, the defendant has not yet been served. Accordingly, pursuant to Federal Rule of Civil Procedure 4(m), it is hereby

ORDERED that plaintiff has until December 17, 2012 either to complete service of the summons and complaint on defendant through the United States Marshals Service via the Pro Se department of the Clerk's Office or to show good cause why such service has not been made. Failure to complete service or to show cause on or before December 17, 2012, will result in the issuance of a Report and Recommendation recommending the dismissal of this action.

(Emphasis in original.)

A copy of my October 18, 2012 Order was mailed to plaintiff at the address provided when she commenced this action -- the only address plaintiff ever provided to the Court. It has not been returned as undeliverable.

To date, plaintiff has not filed proof of service, has not explained why service has not been completed and has not contacted my chambers or the Court in any way. Accordingly, I respectfully recommend sua sponte that this action be dismissed

on the ground that plaintiff has not completed service of the summons and complaint within the time permitted by Rule 4(m), Fed. R. Civ. P.

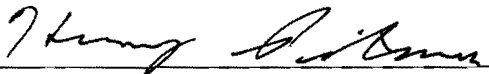
#### OBJECTIONS

Pursuant to 28 U.S.C. § 636(b)(1)(C) and Rule 72(b) of the Federal Rules of Civil Procedure, the parties shall have fourteen (14) days from the date of this Report and Recommendation to file written objections. See also Fed. R. Civ. P. 6(a) and 6(e). Such objections (and responses thereto) shall be filed with the Clerk of the Court, with courtesy copies delivered to the chambers of the Honorable Paul A. Crotty, United States District Judge, Room 735, 500 Pearl Street, New York, New York 10007 and to the chambers of the undersigned, Room 750, 500 Pearl Street, New York, New York 10007. Any requests for an extension of time for filing objections must be directed to Judge Crotty. FAILURE TO OBJECT WITHIN FOURTEEN (14) DAYS **WILL** RESULT IN A WAIVER OF OBJECTIONS AND **WILL** PRECLUDE APPELLATE REVIEW. Thomas v. Arn, 474 U.S. 140 (1985); United States v. Male Juvenile, 121 F.3d 34, 38 (2d Cir. 1997); I.U.E. AFL-CIO Pension Fund v. Hermann, 9 F.3d 1049, 1054 (2d Cir. 1993); Frank v. Johnson, 968 F.2d 298, 300 (2d Cir. 1992); Wesolek v. Canadair Ltd., 838 F.2d

55, 58 (2d Cir. 1988); McCarthy v. Manson, 714 F.2d 234, 237-38 & n.2 (2d Cir. 1983).

Dated: New York, New York  
January 25, 2013

Respectfully submitted,

  
HENRY PITMAN  
United States Magistrate Judge

Copy transmitted to:

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